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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.												
09/709,038	11/10/2000	ROBERT A. KOCH	36968/202435	3243												
7590 Scott P. Zimmerman PLLC P.O.Box 3822 Cary, NC 27519		07/06/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">NEURAUTER, GEORGE C</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>2143</td><td></td></tr><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>07/06/2007</td><td>PAPER</td></tr></table>		EXAMINER		NEURAUTER, GEORGE C		ART UNIT	PAPER NUMBER	2143		MAIL DATE	DELIVERY MODE	07/06/2007	PAPER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/709,038	Applicant(s) KOCH, ROBERT A.	
	Examiner George C. Neurauter, Jr.	Art Unit 2143	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4,6-12,14-29 and 31-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-12,14-29 and 31-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

Claims 1, 3-4, 6-12, 14-29, and 31-47 are currently presented and have been examined.

***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-4, 6-12, 14-29, and 31-47 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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1. Claims 1, 3-4, 6-12, 14, 16-19, 21-29, and 31-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,807,423 to Armstrong et al.

Regarding claim 1, Armstrong discloses a method for presenting presence information to a first user (referred to within the reference as "watching party"), comprising:

storing a profile associated with a second user ("watched party"), the second user's profile ("registration") assigned a random and unique code number ("unique presence management identifier" or "PCP identifier"); (column 6, lines 7-24 and 39-47) (see also column 8, line 46-column 9, line 63, specifically column 9, lines 17-26);

exchanging the second user's code number with the first user, thus allowing the first user to access the second user's profile (see at least column 6, lines 39-47) (see also column 8, line 46-column 9, line 63, specifically column 9, lines 17-26);

retrieving presence information of the second user indicating the second user's presence at a plurality of contact devices; and presenting the second user's presence information to the first user, the presence information indicating the second user's presence at the plurality of contact devices.

(column 6, lines 48-61, specifically "give a list of available

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communication methods" to the first user; see also column 5, lines 24-55)

Armstrong does not expressly disclose wherein the second user's profile requiring a password to access the profile and exchanging the second user's password with the first user, however, Armstrong does disclose wherein users access a profile management system in order to access their profile (column 13, lines 46-49; column 14, lines 15-22). Armstrong also generally discloses wherein the second user logs in to services such as the Internet and other services (column 6, lines 31-38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to require a password to access a profile since the Examiner takes Official Notice that password protection of a user's account for the purposes of preventing unauthorized access was known by those of ordinary skill in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also *In re Boon*, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create

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on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, *In re Boon*, 169 USPQ 231, 234 states "as we held in *Ahlert*, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Therefore, one of ordinary skill in the art would have been motivated to modify the teachings of Armstrong to include the well known subject matter in the art to achieve the claimed invention since the well known subject matter was well within the level of knowledge and skill of one of ordinary skill and would have reasonably suggested, given this knowledge, that, in view of the teachings of Armstrong, it would be obvious to achieve the limitations of the claim.

It further would have been obvious to one of ordinary skill at the time the invention was made to modify the teachings of Armstrong to include the password during an exchange with the first user in light of the above reasons for the obviousness of

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passwords in the context of profile account protection and also in light of the disclosures of Armstrong, which disclose exchanging the unique code with the first user and wherein the first user and the second users are able to belong to an "aggregate" as described in Armstrong so as to have a shared profile of both users which may be included as part of the second user's profile and allow the users to modify the profile in an equitable fashion (see at least column 6, lines 39-47) (see also column 8, line 46-column 9, line 63, specifically column 9, lines 17-26). These disclosures would have reasonably suggested to one of ordinary skill in the art that, since the shared profile of the user's may be protected by a password in order for only the users to be able to access the shared profile, the second user should have the password of the shared profile so that the first user is able to access the shared profile of the users. Therefore, it would have been obvious to one of ordinary skill in the art to achieve the claimed invention.

Regarding claim 3, Armstrong discloses the method of claim 1, further comprising receiving authorization to present the second user's presence information to the first user. (column 14, lines 4-8; column 15, line 60-column 16, line 12)

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Regarding claim 4, Armstrong discloses the method of claim 1, wherein the retrieving the presence information comprises retrieving presence information for a plurality of addresses that represent at least one of different types of communications and different types of the contact devices. (column 3, lines 47-column 4, line 6)

Regarding claims 6 and 7, Armstrong discloses the method of claim 1, wherein presenting the second user's presence information comprises presenting the presence information in an electronic interface including via at least one of a computer and a telephone. (column 1, lines 14-27; column 6, lines 48-61)

Regarding claim 8, Armstrong discloses the method of claim 1, wherein retrieving the presence information is at least in part determined based on a time or a day of week preference from a profile of the second user. (column 4, lines 6-10; column 6, lines 7-24, specifically lines 15-22; column 5, line 35)

Regarding claim 9, Armstrong discloses the method of claim 1, further comprising presenting a graphical indicator that indicates the second user's presence at the plurality of contact devices. (column 1, lines 14-27; column 6, lines 48-61)

Regarding claim 10, Armstrong discloses the method of claim 1, wherein presenting the presence information comprises causing



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display of the presence information to the first user. (column 1, lines 14-27; column 6, lines 48-61)

Regarding claim 11, Armstrong discloses the method of claim 1, wherein retrieving the presence information comprises at least one of i) querying a provider to determine the presence information and ii) querying a contact device to determine the presence information. (column 14, line 62-column 15, line 14; column 16, lines 42-55)

Regarding claim 12, Armstrong discloses a system for presenting presence information to a sender of a communication, comprising:

an input for receiving presence information of a recipient indicating the recipient's presence at a plurality of contact devices; and a processor coupled with the input, the processor causing presentation of the recipient's presence information to the sender, the presence information indicating the recipient's presence at a plurality of contact addresses (column 6, lines 48-61, specifically "give a list of available communication methods" to the sender; see also column 5, lines 24-55), the processor receiving a selection from the sender that selects a contact address to which the communication is addressed, and the processor initiating the communication to a destination, wherein the destination of the communication is the contact address

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selected by the sender. (column 6, lines 48-61, specifically lines 60-61) (note that the selection from the list is inherent within the teachings of Armstrong)

Regarding claim 14, Armstrong discloses the system of claim 12, wherein the processor initiates a telephone call to a telephone number associated with the selected contact address. (column 6, lines 9-13)

Regarding claim 16, Armstrong discloses the system of claim 12, wherein the processor initiates an electronic message to an email address. (column 6, lines 9-13)

Regarding claim 17, Armstrong discloses the system of claim 12, wherein the processor initiates an electronic message to a text messaging address. (column 6, lines 9-13; column 16, lines 30-41)

Regarding claim 18, Armstrong discloses the system of claim 12, wherein the processor processes the recipient's presence information for display to the sender. (column 1, lines 14-27; column 6, lines 48-61)

Regarding claim 19, Armstrong discloses the system of claim 12, wherein the processor presents a graphical indicator that indicates the recipient's presence at the plurality of contact device addresses. (column 1, lines 14-27; column 6, lines 48-61)

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Regarding claim 21, Armstrong discloses the system of claim 12, wherein the processor retrieves the presence information by querying at least one of i) a provider and ii) the contact address to determine the presence information. (column 14, line 62-column 15, line 14; column 16, lines 42-55)

Regarding claim 22, Armstrong discloses the system of claim 12, wherein the selection from the sender is based on the presence information. (column 6, lines 48-61, specifically lines 60-61)

Regarding claim 23, Armstrong discloses the system of claim 12, wherein the input that receives the presence information receives a notification that the contacts address is active. (column 14, line 62-column 15, line 14; column 16, lines 42-55)

Claims 24-29 and 31-35 are also rejected since these claims recite substantially the same limitations as recited in claims 12, 14-21, 23, and 22 respectively.

Regarding claim 36, Armstrong discloses a computer readable medium according to claim 24, further comprising instructions for causing display of an icon to indicate presence at least one of a phone, a personal digital assistant, a pager, a computer, and an interactive television. (column 1, lines 14-27; column 6, lines 48-61)

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Claims 37-42 are also rejected since these claims recite substantially the same limitations as recited in claims 12, 14-17, and 22 respectively.

Claims 43-47 are also rejected since these claims recite substantially the same limitations as recited in claims 12, and 14-17 respectively.

2. Claims 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6 807 423 to Armstrong et al in view of US Patent 6 714 519 to Luzzatti et al.

Regarding claim 15, Armstrong discloses the system of claim 12.

Armstrong does not disclose wherein the processor initiates an Internet Telephony call from the sender to the recipient, however, Luzzatti does disclose these limitations within the context of selection of a plurality of recipient devices by a sender after retrieving the presence of the recipient at each of the plurality of devices (column 1, line 41; column 2, line 34-column 3, line 18; column 5, lines 39-45, specifically lines 40-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of these references since Luzzatti discloses that Internet Telephony calls are used to initiate communications between two

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users over the Internet (column 1, lines 38-54). In view of these specific advantages and that the references are directed to retrieving a presence of a recipient at a plurality of devices and selecting, by a sender, a specific device to initiate communications, one of ordinary skill would have been motivated to combine these references and would have considered them to be analogous to one another based on their related fields of endeavor, which would lead one of ordinary skill to reasonably expect a successful combination of the teachings.

Regarding claim 20, Armstrong discloses the system of claim 12.

Armstrong does not expressly disclose wherein the processor causes display of an icon to initiate the communication from the sender to the address associated with the selected contact addresses, however, Armstrong does disclose displaying graphical indicators that indicates the recipient's presence at the plurality of contact device addresses and inherently allows the sender to select an address to initiate communications (column 1, lines 14-27; column 6, lines 48-61).

Luzzatti discloses wherein a processor causes display of an icon in the context of displaying presence information to a sender. (column 3, lines 6-17; column 5, lines 20-25)

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Armstrong to include the graphical icon of Armstrong since one of ordinary skill would have found it obvious that, in view of the teachings of Armstrong and Luzzatti and the knowledge of one of ordinary skill in the art, the use of an icon on a graphical user interface is used to indicate information to a user and allow the user to select information on a display by visual inspection. Therefore, the teachings of these references would have reasonably suggested to one skilled in the art that using an icon as disclosed in Luzzatti within a list of available communication methods which allows the sender to select an address to initiate communications would have been obvious in view of the teachings of these references. In view that the references are directed to retrieving a presence of a recipient at a plurality of devices and selecting, by a sender, a specific device to initiate communications using a graphical user interface, one of ordinary skill would have been motivated to combine the teachings of these references and would have considered them to be analogous to one another based on their related fields of endeavor, which would lead one of ordinary skill to reasonably expect a successful combination of the teachings.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

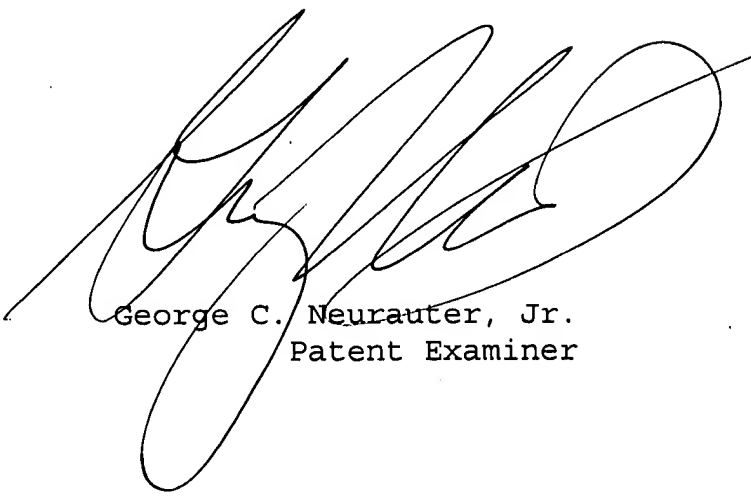
Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is 571-272-3918. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be

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reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



George C. Neurauter, Jr.  
Patent Examiner